

**FIRST ENGROSSMENT
with Conference Committee Amendments**

ENGROSSED HOUSE BILL NO. 1398

Introduced by

Representatives Kroeber, Fairfield, Kretschmar

Senators Robinson, Wardner

1 A BILL for an Act to create and enact a new section to chapter 12-44.1 of the North Dakota
2 Century Code, relating to correctional facility files and records.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 12-44.1 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Correctional facility files and records confidentiality.**

7 1. The medical, psychological, and treatment records of an inmate are confidential
8 and may not be disclosed directly or indirectly to any person, organization, or
9 agency, except as provided in this section. A court may order the inspection of the
10 records, or parts of the records, upon an application to the court and a showing
11 that there is a proper and legitimate purpose for the inspection and the provision of
12 written authorization from the inmate for the inspection. Notwithstanding any other
13 provision of law relating to privilege or confidentiality, except for the confidentiality
14 requirements of federal drug and alcohol treatment and rehabilitation laws,
15 medical, psychological, or treatment records may be inspected by or disclosed to
16 the following persons, organizations, or agencies without prior authorization from
17 the inmate or an order from the court:

- 18 a. A criminal justice agency as defined in subsection 4 of section 44-04-18.7.
- 19 b. A division, department, official, or employee of the department of corrections
20 and rehabilitation.
- 21 c. A federal, state, regional, county, or municipal correctional facility receiving
22 physical custody of an inmate from the original correctional facility.
- 23 d. A municipal or district court.

- 1 e. The department of human services, a public hospital or treatment facility, or a
2 licensed private hospital or treatment facility.
- 3 2. a. A person, agency, or institution governed by statutory confidentiality
4 requirements and receiving information or records under this section shall
5 maintain the confidentiality requirements.
- 6 b. Except as provided in subdivision a of this subsection, a person, organization,
7 or agency receiving confidential records under subsection 1 may not
8 redisclose the records and must maintain the confidentiality of the records.
- 9 3. The employment or work release status of an inmate is an open record.
- 10 4. Records with respect to inmate identification, charges, criminal convictions, bail
11 information, and intake and projected release dates are open records.
- 12 5. Records with respect to a sentenced inmate's institutional discipline and conduct
13 and protective management are exempt records as defined under section
14 44-04-17.1.
- 15 6. Institutional discipline and conduct and protective management records of all other
16 inmates are confidential records and may only be disclosed as provided in
17 subsection 1.